

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DANIEL SCHAFFER,

Plaintiff

v.

COUNTY OF ALAMEDA, et al.,

Defendants

No. 06-0310 MMC

**ORDER RE: ROBERT ANDERSON'S
REQUEST FOR ISSUANCE OF
CERTIFICATE OF APPEALABILITY**


By order filed March 17, 2009, the Court denied claimant Robert Anderson's ("Anderson") motion to approve a late claim in the above-titled class action. On April 13, 2009, Anderson filed a notice of appeal from the March 17, 2009 order. Also, on April 13, 2009, Anderson filed a "Motion: Request for Issuance of Certificate of Appealability."

Issuance of a certificate of appealability is mandatory before a party may appeal an order denying a petition for a writ of habeas corpus. See 28 U.S.C. § 2253(c). The instant action, however, is a class action arising under 42 U.S.C. § 1983, and Anderson can proceed on appeal without need of a certificate of appealability.

Accordingly, Anderson's request for issuance of a certificate of appealability is hereby DENIED as unnecessary.

IT IS SO ORDERED.

Dated: April 17, 2009


MAXINE M. CHESNEY
United States District Judge